

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1) and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs and Adult Day Services,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

The amendments in Items 1 and 2 implement legislative changes made to Iowa Code section 135C.33 by 2014 Iowa Acts, House File 2365. The legislation provides employers with additional time to verify the conviction or entry of a record of founded abuse of current employees. The change from 48 hours to seven calendar days resulted from recommendations of the Background Check Study Committee that met in 2013 pursuant to 2013 Iowa Acts, Senate File 347. The Committee recommended the change because the information necessary for employers to verify a conviction or founded abuse may take up to seven calendar days to be available on the system used by employers for verification.

Item 3 rescinds rule 481—67.23(231B,231C,231D) regarding training related to Alzheimer’s disease and similar forms of irreversible dementia. The rule requires programs to comply with administrative rules implementing Iowa Code section 231.62. Iowa Code section 231.62 was amended by 2012 Iowa Acts, chapter 1086, section 13, to remove the requirement that the Department on Aging adopt rules to implement certain training and education provisions for those who regularly deal with persons with Alzheimer’s disease and similar forms of irreversible dementia.

The amendments in Item 4 implement legislative changes in 2014 Iowa Acts, Senate File 2193. The legislation adds to Iowa Code chapter 231D a new section which sets forth requirements for admission and retention of participants in an adult day services program.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 17, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2014 Iowa Acts, House File 2365 and Senate File 2193.

The following amendments are proposed.

ITEM 1. Amend paragraph **67.19(9)“a”** as follows:

a. The employer shall act to verify the information within ~~48 hours~~ seven calendar days of notification. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 2. Amend paragraph **67.19(10)“a”** as follows:

a. The program shall act to verify credible information within ~~48 hours~~ seven calendar days of receipt. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public

safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 3. Rescind and reserve rule ~~481—67.23(231B,231C,231D)~~.

ITEM 4. Amend subrule 70.23(1) as follows:

70.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a participant who:

~~a. Is bed bound; or~~

~~b. a.~~ Requires routine, three-person assistance with standing, transfer or evacuation; or

~~c. b.~~ Is dangerous to self or other participants or staff, including but not limited to a participant who:

(1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse ~~or aggression~~; or

~~(2) Displays behavior that places another participant at risk; or~~

~~d. (2)~~ Is in an acute stage of alcoholism, drug addiction, or ~~uncontrolled~~ mental illness; or

~~e. c.~~ Is under the age of 18; ~~or~~

~~f.~~ Requires more than part-time or intermittent health-related care; or

~~g.~~ Has unmanageable incontinence on a routine basis despite an individualized toileting program;

~~or~~

~~h.~~ Is medically unstable; or

~~i.~~ Requires maximal assistance with activities of daily living.